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AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN SENATE JUNE 28, 2005

AMENDED IN ASSEMBLY APRIL 25, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1665

Introduced by Assembly Member Laird

February 22, 2005

An act to amend Section 8521 of, to add Sections 8327, 8523, and 8524 to, and to add Article 8 (commencing with Section 8725) to Chapter 3 of, to add Chapter 9 (commencing with Section 9110) to, and to add Chapter 10 (commencing with Section 9150) to, Part 4 of Division 5 of, the Water Code, relating to flood control, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1665, as amended, Laird. ~~Flooding~~—*Flood control*.

(1) Existing law establishes the 7-member Reclamation Board in the department. Existing law authorizes the Reclamation Board to engage in various flood control activities along the Sacramento River, San Joaquin River, their tributaries, and related areas. Existing law requires the Reclamation Board to establish and enforce standards for the maintenance and operation of, and to undertake other responsibilities with regard to, flood control works under its jurisdiction.

This bill would rename the Reclamation Board the Central Valley Flood Management Board. The bill would require the department to prepare and submit to the Legislature, before January 1, 2010, a report

describing the state plan of flood control. The bill would require the department, on or before January 1, 2007, to prepare a schedule for mapping areas at risk of flooding in the Sacramento and San Joaquin Rivers drainage.

The bill would require a local agency responsible for the operation and maintenance of project works, on or before September 30 of each year, to prepare and submit to the board, in a format specified by the board, a report of information for inclusion in periodic flood management reports relating to the project, thereby imposing a state-mandated local program. The bill would require any county that includes a levee failure inundation zone, as defined, to identify each parcel of real property located in such a zone and to provide a written notice of flood hazard with the annual property tax assessment of each landowner determined by the county to own a parcel of real property located in a levee failure inundation zone, thereby imposing a state-mandated local program.

The bill would require the department, in cooperation with the board, before January 1, 2011, to prepare a flood control system status report, as prescribed. The bill would require the board to prepare a report on flood management for each local agency responsible for the operation and maintenance of a federal flood control facility of the facilities of the state plan of flood control, to be made available on the board's Internet Web site and provided to specified entities. The bill would require the board to prepare, update, and maintain levee failure inundation zone maps.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(3) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) One of the first plans for flood control in the Central Valley adopted by the Legislature was based on the August 10, 1910, report of the California Debris Commission. State adoption of this report followed the efforts of local landowners and agencies to control portions of the areas of potential flooding with no general oversight and without appreciable success. The report envisioned standardization of levee heights and construction of a system of weirs and bypasses to relieve stress on the river levees. The state plan that has developed in the ensuing years incorporated many existing local levees into the system. The system of levees has improved navigation on state waterways, reclaimed lands subject to inundation to permit their development for agricultural purposes, and reduced the frequency of flooding of certain urban centers that existed at the time.

(b) Subsequent legislative acts have amended and added to the flood control system described in the Debris Commission report under the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6 of the Water Code).

(c) Under the Federal Flood Control Act of 1944 (Public Law 78-534), the federal government was generally responsible for designing and constructing channel improvements and rectification. The state acted as the nonfederal sponsor under federal law, was responsible for providing the necessary lands, easements, and rights-of-way for the project, and provided indemnification to the federal government. Local government agencies maintained and operated the finished works to federal standards. As specified in Section 12642 of the Water Code, in all cases where the federal government does not maintain and operate projects, it is the responsibility and duty of the county, city, state agency, or public district affected to maintain and operate flood control and other works, constructed pursuant to Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6 of the Water Code after their completion and hold and save the state

1 and the United States free from damages. The state has limited
2 maintenance responsibilities for specified system structures and
3 flood channels under Section 8361 of the Water Code. Since
4 1986, federal law has required a nonfederal monetary
5 contribution for the costs of construction. Since 1988, state law
6 has required local cost-sharing with the state on nonfederal
7 construction costs. Maintenance and hold harmless obligations
8 have not changed.

9 (d) The Legislature recognizes that by their nature, levees,
10 which are earthen embankments typically founded on fluvial
11 deposits, cannot offer complete protection from flooding, but can
12 decrease its frequency.

13 (e) The Legislature recognizes that the level of flood
14 protection afforded agricultural lands by the original flood
15 control system is not considered adequate to protect those lands
16 when developed for urban uses, and that a dichotomous system
17 of flood protection for urban and agricultural lands has developed
18 through many years of practice. The Legislature further
19 recognizes that levees built to reclaim and protect agricultural
20 land may be inadequate to protect urban development unless
21 those levees are significantly improved.

22 (f) Flood plain management tools such as flood plain mapping,
23 the national flood insurance program, and the designated
24 floodway program, represent important supplemental activities to
25 educate the public about and protect the public from flood
26 hazards.

27 (g) The unification of assorted local flood protection levees
28 and works into a coherent system under the regulatory control of
29 the Central Valley Flood Management Board is a reasonable plan
30 of flood control, even though levee failures sometimes occur.
31 The plan has provided substantial flood control and economic
32 benefits over many decades that greatly exceed the cumulative
33 economic losses due to floods. In many instances, the economic
34 losses that have been sustained due to flooding could have been
35 significantly mitigated or offset through the voluntary purchase
36 of flood insurance or local efforts to increase the level of flood
37 protection provided by their levees.

38 SEC. 2. Section 8327 is added to the Water Code, to read:

39 8327. On or before January 1, 2007, the department shall
40 prepare a schedule for mapping areas at risk of flooding in the

1 Sacramento and San Joaquin Rivers drainage. The department
2 shall update the schedule annually and shall include the status of
3 mapping projects in progress and an estimated time of
4 completion. The schedule should be based on the present and
5 expected future risk of flooding and associated consequences.
6 Mapping should include, at a minimum, flood plain mapping,
7 floodway mapping, and remapping.

8 SEC. 3. Section 8521 of the Water Code is amended to read:

9 8521. "Board" means the Central Valley Flood Management
10 Board. Any reference to the Reclamation Board in this code
11 means the Central Valley Flood Management Board.

12 SEC. 4. Section 8523 is added to the Water Code, to read:

13 8523. "Facilities of the state plan of flood control" means the
14 collective federal and state authorized flood control facilities and
15 projects located in the Sacramento and San Joaquin Rivers
16 drainage for which the board or the department has given the
17 nonfederal assurances to the United States required for the
18 project, and those facilities identified in Section 8361.

19 SEC. 5. Section 8524 is added to the Water Code, to read:

20 8524. "Federal levee" means any levee that is part of a
21 federal and state authorized flood control project located in the
22 Sacramento and San Joaquin Rivers drainage for which the board
23 or the department has given the nonfederal assurances to the
24 United States required for the project.

25 SEC. 6. Article 8 (commencing with Section 8725) is added
26 to Chapter 3 of Part 4 of Division 5 of the Water Code, to read:

27
28 Article 8. State Flood Control Plan
29

30 8725. Before January 1, 2010, the department, in cooperation
31 with the board, shall prepare and submit to the Legislature a
32 report describing the state plan of flood control. The report shall
33 contain a detailed description and inventory of the flood control
34 system using available information that includes all of the
35 following:

36 (a) A description of the historical development of the flood
37 control system.

38 (b) An inventory and description of all facilities of the state
39 plan of flood control, including information on the original

1 purpose, foundation investigations, and design and construction
2 of the project.

3 (c) The identification of maintaining agencies for specific
4 facilities.

5 (d) A description of the roles and responsibilities of federal,
6 state, and local agencies.

7 (e) A description of the purpose and limitations of the flood
8 control system.

9 (f) A description of all other relevant projects, programs, and
10 activities that, in the determination of the department or the
11 board, are a material component of the state plan of flood control.

12 SEC. 7. Chapter 9 (commencing with Section 9110) is added
13 to Part 4 of Division 5 of the Water Code, to read:

14
15 CHAPTER 9. LOCAL REPORTS

16
17 Article 1. Definitions

18
19 9110. (a) "Fiscal year" shall have the same meaning as in
20 Section 13290 of the Government Code.

21 (b) "Levee failure inundation zone" means the area protected
22 by a federal levee as determined by the Central Valley Flood
23 Management Board.

24
25 Article 2. Flood Management Reports

26
27 9120. (a) On or before September 30 of each year, a local
28 agency responsible for the operation and maintenance of project
29 works shall prepare and submit to the board, in a format specified
30 by the board, a report of information for inclusion in periodic
31 flood management reports relating to the project. The
32 information submitted to the board shall include all of the
33 following:

34 (1) Information known to the local agency that is relevant to
35 the condition or performance of the project works.

36 (2) Information identifying known conditions that might
37 impair or compromise the level of flood protection provided by
38 the project works.

39 (3) A summary of the maintenance performed by the local
40 agency during the previous fiscal year.

1 (4) A statement of work and estimated cost for operation and
2 maintenance of project works for the current fiscal year, as
3 approved by the local agency.

4 (5) Any other information relevant to the condition or
5 performance of the project works, as determined by the board.

6 (b) A local agency that operates and maintains a nonproject
7 levee that also benefits land within the boundaries of the area
8 benefitted by the project shall include information pursuant to
9 subdivision (a) relating to the nonproject levee.

10 (c) A local agency that incurs costs for the maintenance or
11 improvement of a project or nonproject levee under the delta
12 levee maintenance subventions program established pursuant to
13 Part 9 (commencing with Section 12980), may submit
14 information submitted to satisfy the requirements of that program
15 to meet the requirements of paragraph (3) of subdivision (a), but
16 may do so only for that reach of the levee included in that
17 program.

18 (d) A local agency responsible for the operation and
19 maintenance of a flood control project not otherwise subject to
20 this section may voluntarily prepare and submit to the department
21 or the board a flood management report for posting on the
22 Internet Web site of the department or the board.

23 (e) As used in this section:

24 (1) "Local agency" means a local agency responsible for the
25 maintenance of project works.

26 (2) "Maintenance" means maintenance as defined in
27 subdivision (f) of Section 12878.

28 (3) "Project" means a facility of the state plan of flood control,
29 as defined in Section 8523.

30 9121. (a) Any county that includes a levee failure inundation
31 zone shall identify each parcel of real property located wholly or
32 in part in a levee failure inundation zone as that zone is
33 determined by the board pursuant to Section 9170.

34 (b) Any county that includes a levee failure inundation zone
35 shall provide a written notice of flood hazard with the annual
36 property tax assessment of each landowner determined by the
37 county to own a parcel of real property located in a levee failure
38 inundation zone. The notice shall include statements regarding all
39 of the following:

40 (1) The property is located behind a levee.

(2) Levees reduce, but do not eliminate, the risk of flooding and are subject to catastrophic failure.

(3) The level of flood risk as described in the flood control system status report described in Section 9150, the approximate maximum potential flood depth for each levee failure inundation zone in the county, and a levee failure inundation zone map for the county as prepared by the board in accordance with Section 9170.

(4) (A) The landowner is advised by the state to have flood insurance for any buildings on the property to protect the owner from loss.

(B) For the purpose of compliance with subparagraph (A), the notice shall contain the following statement:

NOTICE OF LEVEE FAILURE INUNDATION ZONE

This property is located within an area identified by the Central Valley Flood Management Board as a levee failure inundation zone. Flooding due to the failure of a federal flood protection levee may cause significant risk to life and property. The State of California recommends that property owners in levee failure inundation zones obtain flood insurance provided by the Federal Emergency Management Agency through the National Flood Insurance Program.

(5) Information about purchasing subsidized federal flood insurance.

(6) The Internet address of the Web site of the board that contains the information required by the flood management report described in Section 9160.

(7) Any other information determined by the department to be necessary.

(c) In preparing the annual written notice of flood hazard required by this section, each county shall employ inundation information and general descriptions developed by the board.

9122. A local agency responsible for the operation and maintenance of a federal flood control facility of the facilities of the state plan of flood control, as defined in Section 8523, may propose an upgrade to any federal flood control facility, if the local agency documents in its flood management report that the upgrade is appropriate. The local agency may implement that upgrade if approved by the board.

1 SEC. 8. Chapter 10 (commencing with Section 9150) is
2 added to Part 4 of Division 5 of the Water Code, to read:

3
4 CHAPTER 10. STATE REPORTS

5
6 Article 1. Flood Control System Status Report

7
8 9150. (a) Before January 1, 2011, the department, in
9 cooperation with the board, shall prepare a flood control system
10 status report.

11 (b) The flood control system status report shall identify and
12 describe the facilities of the state flood control system, including
13 known deficiencies, using available information, and make
14 appropriate recommendations.

15 (c) The report shall be updated periodically, as necessary,
16 upon the appropriation of funds for that purpose.

17
18 Article 2. Reports on Flood Management Activities by Local
19 Agencies

20
21 9160. (a) The board shall prepare a report on flood
22 management for each local agency responsible for the operation
23 and maintenance of a federal flood control facility of the
24 facilities of the state plan of flood control, as defined by Section
25 8523, using information provided by the local agency pursuant to
26 Section 9120 and information from relevant portions of the
27 following documents, as determined by the board:

28 (1) Annual inspection reports on local agency maintenance
29 prepared by the department or board.

30 (2) The state plan of flood control described in Section 8725.

31 (3) The flood control system status report described in Section
32 9150.

33 (4) The schedule for mapping described in Section 8327.

34 (5) Any correspondence, document, or information deemed
35 relevant by the board.

36 (b) The board shall make the flood management report for
37 each local agency available on the Internet Web site of the board
38 and shall provide the report to all of the following entities:

39 (1) The department.

40 (2) The local agency.

1 (3) Any city or county within the local agency's jurisdiction.

2 (4) Any public library located within the local agency's
3 jurisdiction.

4 (c) The flood management report shall be updated annually
5 upon the appropriation of funds for that purpose.

6 (d) A flood management report voluntarily submitted by a
7 local agency pursuant to subdivision (d) of Section 9120 shall be
8 made available on the Internet Web site of the board if the local
9 agency has jurisdiction within the geographical boundaries of the
10 board's jurisdiction. Otherwise, the report shall be made
11 available on the Internet Web site of the department.

12
13 Article 3. Levee Failure Inundation Zone Maps
14

15 9170. (a) The board shall prepare, update, and maintain maps
16 for levee failure inundation zones, as defined in subdivision (b)
17 of Section 9110. The maps shall include flood depth contours
18 determined by the board.

19 (b) It is the intent of the Legislature that the levee failure
20 inundation zone maps be widely distributed to appropriate
21 government agencies, as determined by the board.

22 SEC. 9. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.

27 *SEC. 10. This act is an urgency statute necessary for the*
28 *immediate preservation of the public peace, health, or safety*
29 *within the meaning of Article IV of the Constitution and shall go*
30 *into immediate effect. The facts constituting the necessity are:*

31 *To reduce the threat to public safety resulting from levee*
32 *failures and to reduce the state's future liability as the result of*
33 *Paterno v. State of California (2003) 113 Cal. App. 4th 998, it is*
34 *necessary that this act take effect immediately.*